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EXPERIAN INFORMATION SOLUTIONS,
6 INC.

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 EDEN KRETCHET,

12 Plaintiff,

13 v.

14 TRANS UNION LLC, EXPERIAN
INFORMATION SOLUTIONS INC.
15 EQUIFAX INFORMATION
SERVICES LLC, CAPITAL ONE
16 BANK (USA) N.A., BANK OF
AMERICA CORPORATION,
17 NATIONAL CREDIT ADJUSTERS
LLC, CALIFORNIA BUSINESS
18 BUREAU INC., LVNV FUNDING
LLC, DOES 1 TO 10, INCLUSIVE.

19 Defendants.
20

Case No.CV-14-01953 DMG (RZx)

**DEFENDANTS' RESPONSE TO
THE COURT'S ORDER TO
SHOW CAUSE RE: MOTION
TO REMAND**

Hearing Date: May 16, 2014
Time: 9:30 a.m.
Courtroom: 7

21 **I. INTRODUCTION**

22 Plaintiff Eden Kretchet ("Plaintiff") alleges Defendants violated the Fair
23 Credit Reporting Act ("FCRA") and therefore remand is improper. The crux of
24 Plaintiff's claims against Defendants arise out of the reporting of account
25 information on Plaintiff's credit reports. Plaintiff's First Cause of Action alleges
26 Defendants were "reporting the same negative account information multiple times
27 in violation of the **Fair Credit Reporting Act.**" (Complaint at 3:24-26).
28

Plaintiff's Second Cause of Action alleges Defendants were reporting "negative account information in which the delinquency of the account was being reported as having occurred much more recently than was actually the case in violation of the **Fair Credit Reporting Act.**" (Complaint at 4:20-24). Plaintiff has alleged violations of a federal statute, the FCRA. This Court has original jurisdiction under 28 U.S.C. § 1331, as well as supplemental jurisdiction over Plaintiff's state law claims, which are based on the exact same set of facts as the federal claims. Therefore, the case should not be remanded for lack of subject matter jurisdiction and Plaintiff's Motion to Remand should be denied.

II. FACTS

Plaintiff filed this case on February 14, 2014, alleging violations of the FCRA and Consumer Credit Reporting Agencies Act ("CCRAA") in relation to allegedly inaccurate information on his credit reports. Experian Information Solutions, Inc. ("Experian") was served with the Summons and Complaint on February 14, 2014. (Declaration of Katherine A. Klimkowski in Support of Defendants' Response to Court's Order to Show Cause re: Remand ["Klimkowski Decl.,"] ¶ 3. Ex. A) On March 14, 2014, Experian filed the Notice of Removal to the United States District Court for the Central District of California. *See* Dkt. Entry. No. 1. Experian served Plaintiff on March 14, 2014 with the Notice of Removal and Certificate of Interested Parties filed in Federal Court. *See* Dkt. Entry No.'s. 1-2. Experian also served Plaintiff with the Notice of Removal filed in State Court. Klimkowski Decl. ¶ 4, Ex. 2.

On March 28, 2014, Defendant National Credit Adjusters, LLC. filed a Consent to Removal.¹ *See* Dkt. Entry. No. 8. On April 11, 2014, Defendant FIA Card Services, N.A. filed a Joinder to Removal of Action.² *See* Dkt. Entry. No. 14.

¹ Defendant National Credit Adjusters, LLC is working to resolve the case with Plaintiff.

² Defendant Trans Union, LLC, Defendant Equifax Information Services, LLC, and Defendant LVNV Funding, LLC have not yet appeared in the case. *See*

1 Plaintiff filed his Notice of Motion and Motion to Remand on April 10, 2014. *See*
 2 Dkt. Entry. No. 16.

3 **III. ARGUMENT**

4 **A. This Court Has and Should Retain Jurisdiction over Plaintiff's** 5 **FCRA Claim.**

6 A Federal District Court has removal jurisdiction over any civil action
 7 brought in State court for which the district court would have had original federal
 8 jurisdiction. 28 U.S.C. § 1441(a). The district courts are vested with original
 9 jurisdiction over cases “arising under the Constitution, laws, or treaties of the
 10 United States.” 28 U.S.C. § 1331. The claims of relief against Defendants alleged
 11 in Plaintiff’s Complaint arise under the federal FCRA, 15 U.S.C. §§ 1681-1681u.
 12 Experian is a corporation which, for monetary fees, regularly engages in whole or
 13 in part in the practice of assembling consumer credit information or other
 14 information on consumers for the purpose of furnishing consumer reports to third
 15 parties. Experian uses means or facilities of interstate commerce for the purpose of
 16 preparing or furnishing consumer reports, and therefore is a “consumer reporting
 17 agency” within the meaning of 15 U.S.C. § 1681a(f).

18 Plaintiff argues that this action does not arise under the federal Fair Credit
 19 Reporting Act. (Mot. To Remand at 1:24-25). However, Plaintiff alleges
 20 Defendants were reporting negative account information multiple times in violation
 21 of the **FCRA**. (Complaint at 3:24-26.) Plaintiff further alleges Defendants were
 22 reporting “negative account information in which the delinquency of the account
 23 was being reported as having occurred much more recently than was actually the
 24 case in violation of the **Fair Credit Reporting Act.**” (Complaint at 4:20-24).
 25 Thus, Plaintiff has stated claims under federal law and therefore vested this Court

26
 27 (continued...)

28 Court Docket. Defendant California Business Bureau Inc. has been dismissed. *See*
 Dkt. Entry No. 18.

1 with federal question jurisdiction. This court has original subject matter
 2 jurisdiction over the above-captioned action pursuant to 28 U.S.C. § 1331 and 15
 3 U.S.C. § 1681p. Therefore, removal was proper.

4 **B. This Court Has Supplemental Jurisdiction Over Plaintiff's Claims.**

5 Federal law provides that “in any civil action of which the district courts
 6 have original jurisdiction, the district courts shall have supplemental jurisdiction
 7 over all other claims that are so related to claims in the action within such original
 8 jurisdiction that they form part of the same case or controversy under Article III of
 9 the United States Constitution.” 28 U.S.C. § 1387(a). The exercise of supplemental
 10 jurisdiction by a district court over state law claims is appropriate where the
 11 nonfederal claims “derive from a common nucleus of operative fact and are such
 12 that a plaintiff would ordinarily be expected to try them in one judicial
 13 proceedings.” *Trs. Of the Constr. Indus. & Laborers Health & Welfare Trust v.*
 14 *Desert Valley Landscape & Maint., Inc.*, 333 F.3d 923, 925 (9th Cir. 2003); *see*
 15 *also Savage v. Glendale Union High Sch., Dist. No. 205, Maricopa Cty.*, 343 F.3d
 16 1036, 1051(9th Cir. 2003) (supplemental jurisdiction was proper where “the same
 17 facts and circumstances that form the basis for Savage’s claims under the ADA and
 18 RA support her [state law] claim”).

19 Here, Plaintiff’s FCRA claims substantially overlap with the state claims in
 20 that they are all related to allegedly inaccurate and/or negative credit information
 21 contained in Plaintiff’s credit reports. “The ‘substantially predominate’ standard ...
 22 is not satisfied simply by a numerical count of the state and federal claims the
 23 plaintiff has chosen to assert on the basis of the same set of facts.” *Bourough of W.*
 24 *Mifflin v. Lancaster*, 45 F.3d 780, 789 (3d Cir. 1995). Where the “state causes of
 25 action require consideration of similar facts and issues as [the] federal claim, ...
 26 state law claims cannot be said to substantially predominate over [the] federal
 27 claim.” *Bavand v. OneWest Bank FSB*, 2012 WL 1884668, at *4 (W.D. Wash.
 28 May 22, 2012). Plaintiff cannot dispute that this Court will be considering the same

1 evidence and facts with regard to his FCRA and state law claims. Therefore,
2 Plaintiff's argument that his claim does not arise under federal law fails and remand
3 is improper.

4
5 **IV. CONCLUSION**

6 For the foregoing reasons, Defendants respectfully requests that the Court
7 deny Plaintiff's Motion to Remand in its entirety.

8
9 Dated: April 28, 2014

JONES DAY

10
11 By: /s/ Katherine A. Klimkowski
Katherine A. Klimkowski

12 Attorneys for Defendant
13 EXPERIAN INFORMATION
14 SOLUTIONS, INC.
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CERTIFICATE OF SERVICE

I, Dulce Hansen, declare:

I am a citizen of the United States and employed in Orange County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 3161 Michelson Drive, Suite 800, Irvine, California 92612.4408. On April 28, 2014, I served a copy of the **DEFENDANTS' RESPONSE TO THE COURT'S ORDER TO SHOW CAUSE RE: MOTION TO REMAND** by electronic transmission.

I am familiar with the United States District Court Central District of California Western District's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the court. The court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the court's transmission facilities. Under said practice, the following CM/ECF users were served:

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12 *National Credit Adjusters LLC*

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14 Executed on April 28, 2014, at Irvine, California.

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/s/ Dulce Hansen
Dulce Hansen

PROOF OF SERVICE BY MAIL

I, Dulce Hansen, am a citizen of the United States and employed in Orange County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 3161 Michelson Drive, Suite 800, Irvine, California 92612.4408. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On April 28, 2014, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**DEFENDANTS' RESPONSE TO THE COURT'S ORDER TO SHOW
CAUSE RE: MOTION TO REMAND**

in a sealed envelope, postage fully paid, addressed as follows:

Eden Kretchet
11137 Freer Street
Temple City, CA 91780
Phone: (949) 600-0380

Plaintiff Pro Se

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on April 28, 2014, at Irvine, California.

/s/ Dulce Hansen

Dulce Hansen